

**A RESOLUTION BY COUNCIL MEMBER CEASAR C. MITCHELL**

**06-R-2486**

**AS SUBSTITUTED BY CITY UTILITIES COMMITTEE**

**AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF SEVENTEEN THOUSAND DOLLARS AND 00/100 (\$17,000.00) AS STIPULATED PENALTIES FOR THE VIOLATION OF TOTAL RESIDUAL CHLORINE OPERATIONAL STANDARDS AT THE CLEAR CREEK CSO ON OCTOBER 27, 2006 AND CUSTER AVENUE CSO ON OCTOBER 17, 2006 PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") has experienced a violation of Total Residual Chlorine Operational Standards as set out in Exhibit "A" hereto; and

**WHEREAS**, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT Paragraphs XI.D.3 and XI.D.4; and

**WHEREAS**, the Department of Watershed Management of the City does not dispute the fact this violation of CSO Total Residual Chlorine Operational Standards did occur; and

**WHEREAS**, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

**WHEREAS**, funds for this purpose are available in Fund, Account and Center Number 2J01 529017 Q30001; and

**WHEREAS**, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

**WHEREAS**, it is deemed to be in the interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

**NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA;** as follows: that the Chief Financial Officer of the City is authorized to issue checks in the amounts of Eight Thousand Five Hundred Dollars and 00/100 (\$8,500.00) payable to the **State of**

## **Exhibit A**

The City is subject to stipulated penalties for violations of the CSO Consent Decree, Section XI.D.3 and XI.D.4 as follows:

### **Section XI.D.3 and XI.D.4. Total Residual Chlorine – CSO Facility**

<b>Date</b>	<b>Facility</b>	<b>TRC Violation</b>	<b>Penalty</b>	<b>Comment</b>
10/17/06	Custer Avenue	8.8 mg/l	\$8,500.00	
10/27/06	Clear Creek CSO	1.87 mg/l	\$8,500.00	

A RESOLUTION BY

COUNCILMEMBER CEASAR C. MITCHELL

06- R-2486

- **AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF \$\_\_\_\_\_ AS STIPULATED PENALTIES FOR THE VIOLATION OF CSO FECAL COLIFORM OPERATIONAL STANDARDS \_\_\_\_\_ PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City has experience a violation to the CSO Consent Decree set out in Exhibit "A" hereto; and

**WHEREAS**, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT; and

**WHEREAS**, the Department of Watershed Management of the City does not dispute the fact this violation did occur; and

**WHEREAS**, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

**WHEREAS**, funds for this purpose are available in Fund, Account and Center Number 2J01-529017-Q31001; and

**WHEREAS**, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

**WHEREAS**, it is deemed to be in the best interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD).

**NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA** as follows:

**Section 1:** That the Chief Financial Officer of the City of Atlanta is authorized to issue checks payable in the amount of \$\_\_\_\_\_ to the **State of Georgia** and in the amount of \$\_\_\_\_\_ to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental

Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia.

**Section 2:** That said payments shall be charged to and paid from Fund, Account and Center Number 2J01 529017 Q30001.

**Section 3:** That all resolutions and parts of resolutions in conflict herewith be and are hereby waived in this instance only.

## EXHIBIT A

The City is subject to stipulated penalties for violations of the CSO Consent Decree, per Section\_\_\_\_\_ as follows:

### CSO Consent Decree Section

Date	Facility	Colonies/100 ml	Penalty	Comment
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